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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,571	09/01/2006	Larry C. Smyth	138/9US	6233
36829 7590 09/30/2010 SCHWARTZ LAW FIRM, P.C. 6100 FAIRVIEW ROAD SUITE 11350 CHARLOTTE, NC 28210				
EXAMINER CAZAN, LIVIU RADU				
ART UNIT		PAPER NUMBER		
3729				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/591,571

**Applicant(s)**

SMYTH, LARRY C.

**Examiner**

LIVIOUS R. CAZAN

**Art Unit**

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 12/4/06

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Juret (EP0112256A2; refer to the Machine Translation for the text).**

3. **Regarding claims 1 and 10**, Juret discloses a method for electronically identifying a coded part, said method comprising the steps of: (a) marking an exposed surface of the part (1) with a machine-readable area relief pattern (3), the relief pattern comprising separate and distinct code elements extending along both x and y axes, and each having a profile dimension extending along a z-axis (i.e. 3-D; see 2nd page, 3rd paragraph); (b)(c)(d)(e) locating the area relief pattern on the part, measuring along the x, y, and z axes a region of interest containing the area relief pattern, extracting the area relief pattern from the measured region of interest, and decoding the area relief pattern to extract part information encoded therein (see 2<sup>nd</sup> page, 4<sup>th</sup>-8<sup>th</sup> paragraph; see 3<sup>rd</sup> page, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs).

4. **Regarding claims 2 and 11**, the step of measuring the region of interest comprises employing a laser line scanner adapted for projecting a laser line (8b) onto the surface of the part containing the area relief pattern.

5. **Regarding claims 3, 4, 12, and 13**, the step of measuring the region of interest further comprises moving the coded part relative to the laser line scanner and measuring the region of interest on-the-fly as the coded part is moved past the laser line scanner (see 3<sup>rd</sup> page, penultimate paragraph).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juret.**

8. Juret discloses substantially the claimed invention, including moving the part relative to the scanner. However, Juret does not disclose moving the coded part past the laser line scanner at a minimum rate of 1 fps.

9. It is deemed it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the rate of movement of the part to any suitable speed, depending on the particular manufacturing process. Juret discusses synchronizing the emission of light planes with the speed of the product (see penultimate paragraph), without suggesting there would be any limits as to how slowly the product must move in order for the code to be read properly. Therefore, it is deemed it would have been obvious to move the coded part past the scanner at the claimed speed, as a matter of optimizing the speed for the particular manufacturing process.

10. **Claims 6-9 and 15-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Juret in view of AAPA (Applicant's admitted prior art).

11. **Regarding claims 7-9 and 16-8**, Juret discloses substantially the claimed invention, except for the area relief pattern comprising a peened area code, the coded part being a cast alloy wheel, and the pattern being formed with a rim barrel of the wheel.

12. AAPA discusses teaches that peened area codes are known (see para. [0007]), and also that it is known to mark wheels using a code to be scanned at a later time (see para. [0002]-[0005]), for example to provide traceability and allow identification of the wheels by number to adjust an upcoming process equipment during manufacture.

13. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to apply the teachings of Juret to other types of manufactured parts, such as vehicle wheels, in view of the teachings of AAPA, particularly since AAPA shows a need for part marking and identification, and Juret provides a solution.

14. One of ordinary skill in the art would have found it obvious to place such a code on the rim barrel of a wheel or at any suitable location, including as claimed. One of skill in the art would recognize that some parts of the wheel would be obscured by the tire, or be in a position which is more difficult to read. It makes sense to put the mark in a position where it can be easily read during manufacturing, as well as at a later time. Therefore, it is deemed it would have been obvious to one of ordinary skill in the art to locate the relief pattern as claimed.

15. Further, according to AAPA, peened area marks are 3-D marks. Juret requires forming 3-D marks (see third paragraph on second page). Therefore, at the time the invention was made, one of ordinary skill in the art would have found it obvious to form the relief patterns as peened marks, since it is a known process for forming 3-D marks. Moreover, it should be noted that Applicant's invention is not particularly concerned with the method of forming the relief pattern. Para. [0039] of the specification lists various known processes are listed as possible ways of creating the relief pattern. Therefore, selecting peening or another equivalent process to form the relief pattern is deemed obvious, at is simply a matter of selecting among several known techniques.

16. **Regarding claims 6 and 15**, Juret discloses arranging multiple laser line scanners at predetermined locations relative to the moving coded part (see last paragraph discussing using two cameras).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIVIUS R. CAZAN whose telephone number is (571)272-8032. The examiner can normally be reached on M-F 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DERRIS H. BANKS can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Livius R. Cazan/ 9/27/2010  
Examiner, Art Unit 3729